

SUBCHAPTER N—FREEDOM OF INFORMATION ACT PROGRAM

PART 285—FREEDOM OF INFORMATION ACT PROGRAM

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AUTHORITY: Pub. L. 99-570, secs. 1801-1804; Pub. L. 99-661, sec. 2328; 5 U.S.C. 552.

SOURCE: 53 FR 19905, June 1, 1988, unless otherwise noted. Redesignated at 56 FR 24133, May 29, 1991.

§ 285.1 Reissuance and purpose.

- (a) This part:
 - (1) Reissues DoD Directive 5400.7.¹
 - (2) Establishes policies and procedures for the implementation of the DoD Freedom of Information Act (FOIA) Program under 5 U.S.C. 552.
 - (3) Delegates authorities and responsibilities for the effective administration of the program.
- (b) This part also authorizes, consistent with DoD 5025.1-M² the publication of DoD 5400.7-R³ the single DoD regulation on the FOIA Program.

§ 285.2 Applicability and scope.

(a) This part applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Organization of the Joint Chiefs of Staff (OJCS), the Unified Commands, the Defense Agencies, and the DoD Field Activities. For the purpose of this Directive, OSD, OJCS, the Unified Commands, and the DoD Field Activities are considered a single "DoD Component." The other DoD Components referred to herein are the Military Departments, Defense Communications Agency (DCA), De-

fense Contract Audit Agency (DCAA), Defense Intelligence Agency (DIA), Defense Investigative Service (DIS), Defense Logistics Agency (DLA), Defense Mapping Agency (DMA), Defense Nuclear Agency (DNA), and the National Security Agency/Central Security Service (NSA/CSS).

(b) The NSA/CSS records are subject to this part unless the records are exempt under Pub. L. 86-36.

§ 285.3 Definitions.

The terms used in this part are defined in 32 CFR part 286.

§ 285.4 Policy.

It is DoD policy to:

- (a) Promote public trust by making the maximum amount of information available to the public on the operation and activities of the Department of Defense, consistent with DoD's responsibility to ensure national security.
- (b) Allow a requester to obtain records from the Department of Defense that are available through other public information services without invoking the FOIA.
- (c) Make available, under the procedures established by 32 CFR part 286, those records that are requested by a member of the general public who cites the FOIA.
- (d) Answer promptly all other requests for information, records, objects, and articles under established procedures and practices.
- (e) Release records to the public unless those records are exempt from mandatory disclosure as outlined in subpart C of 32 CFR part 286.
- (f) Process requests by individuals for access to records about themselves under the "Privacy Act" procedures as implemented by 32 CFR part 286a and procedures outlined in this part as amplified by 32 CFR part 286.

§ 285.5 Responsibilities.

- (a) The *Assistant Secretary of Defense (Public Affairs)* (ADS(PA)) shall:
 - (1) Direct and administer the DoD FOIA Program to ensure compliance

¹Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, Attn: Code 1052, 5801 Tabor Avenue, Philadelphia, PA 19120.

²Copies may be obtained, at cost, from the National Technical Information Service, 5258 Port Royal Road, Springfield, VA 22161.

³See footnote 2 to § 285.1(b).

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with policies and procedures that govern the administration of the program.

(2) Issue a DoD FOIA regulation and other discretionary instructions and guidance to ensure timely and reasonably uniform implementation of the FOIA in the Department of Defense.

(3) Internally administer the FOIA Program for the OSD, the OJCS and, as an exception to DoD Directive 5100.3⁴ the Unified Commands (the Specified Commands remain under the Military Departments for FOIA matters).

(4) As the designee of the Secretary of Defense, serve as the sole appellate authority for appeals to decisions of respective Initial Denial Authorities identified in ASD(PA) supplementing instructions.

(b) The *General Counsel, Department of Defense* (GC, DoD) shall provide uniformity in the legal interpretation of this Directive.

(c) The *Heads of DoD Components* shall:

(1) Publish in the FEDERAL REGISTER any instructions necessary for the internal administration of this part within a DoD Component that are not prescribed by this part or by other issuances of the ASD(PA). For the guidance of the public, the information specified in 5 U.S.C. 552(a)(1) shall be published in accordance with 32 CFR part 296.

(2) Conduct training on the provisions of this part and 5 U.S.C., as amended, for officials and employees who implement the FOIA.

(3) Submit the reports prescribed in Chapter VII of DoD 5400.7-R.

(4) Make available for public inspection and copying in an appropriate facility or facilities, in accordance with rules published in the FEDERAL REGISTER, the records specified in 5 U.S.C. 552(a)(2) unless such records are published and copies are offered for sale.

(5) Maintain and make available for public inspection and copying current indices of these records.

§ 285.6 Information requirements.

The reporting requirements in Chapter VII of DoD 5400.7-R have been assigned Report Control Symbol DD-PA(A)1365.

⁴See footnote 1 to § 286.1(a).

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§ 285.7 Effective date and implementation.

This part is effective May 13, 1988. Forward one copy of implementing documents to the Assistant Secretary of Defense (Public Affairs) within 120 days.

PART 286—DOD FREEDOM OF INFORMATION ACT PROGRAM REGULATION

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